

From: "Greg Litster" <greg@safechecks.com> on 03/10/2004 09:10:46 PM
Subject: Availability of Funds and Collection of Checks

March 11, 2004

Ms. Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, DC 20551

Re: Docket number R-1176
Check Clearing for the 21st Century Act

Dear Ms. Johnson,

I would like to comment on Section XXXI § 229.52 Substitute Check Warranties and Section XXXII § 229.53 Substitute Check Indemnity of the Check 21 Act. For the record, I am president of SafeChecks, a company specializing in check fraud prevention, and am a former 18-year banker.

XXXI § 229.52 Substitute Check Warranties

In a recent tele-seminar on Check 21 with Joseph Baressi, there was discussion about whether or not a substitute check should contain ALL the information that was on the original check. For the American public to accept the concept of a substitute check, the substitute check must contain all the information that was on the original check. While the warranty as written requires this, I want to voice my concurrence with the present position.

XXXII. § 229.53 Substitute Check Indemnity

I also concur with the Indemnity provision. In my view, a bank that chooses to convert an original check should do so at its own risk, and not at the risk of the paying bank that was not party to the decision to convert the original check.

There ought to be a timeframe specified in the Act to make a claim under the Indemnity. In my view, the timeframe should be not less than 62 days and not more than 90 days from the date of the conversion. A 62-day timeframe would allow an account holder to receive the bank statement and a month to reconcile the statement.

The example of a converted counterfeit check provided on Page 77 of the proposed rules is clear and very powerful. However, I would like to see an example of an altered check. Doing so would make it unequivocally clear that the Indemnity includes altered checks, provided that the original check had safety features that would have allowed the alteration to be identified had the original check been presented and reviewed.

Sincerely,

R. Gregory Litster

